IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2018 OF 2005

Ramakant Laxman Gharat ...Petitioner

Versus

Dattatraya Laxman Gharat & Anr ...Respondents

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Mr. C.G. Gavankar, counsel for Petitioner

Mr. Rajiv Patil counsel for Respondent No. 1.

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CORAM: B. H. MARLAPALLE, J.

DATED: 26TH APRIL, 2005

P. C.:-

1. Heard Mr. Gavankar, the learned counsel for the petitioner-original defendant No.1.

2. By the impugned order dated 10.2.2005 the defendant has been restrained from carrying out any construction activities in the open space which is the subject matter of the suit i.e. Civil Suit No. 146 of 2004. The parties to the suit are three brothers and admittedly, there is no partition of the suit house and the open space is thus a joint ownership property. Taking these aspects into considerations an equitable order has been passed by the lower appellate Court and Misc. Civil Appeal No. 1 of 2005 has been allowed.

3. There is no case made out to cause interference in the impugned order and hence, the writ petition is rejected summarily.

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